

In the Specification:

Please delete the present specification and insert the new specification that is enclosed on the substitute specification.

REMARKS

The following are applicant's response to issues raised in the Office Action dated 09/13/2001.

Specification Objections:

The specification was objected to because a less than complete description of the plant was presented. Accordingly, the specification has been amended along the lines of the examiner's suggestions to more clearly and completely describe the plant. Its is respectfully requested that the specification objections be withdrawn.

Rejection under 35 U.S.C. 112:

The claim was rejected under 35 USC 112 as not being supported by a clear botanical description. Accordingly, the botanical description has been amended to more clearly describe the plant. Its is respectfully requested that the 112 rejection be withdrawn.

The claimed plant is now believed to be in condition for allowance.

Request for information under 37 CFR 1.105:

In response to the request for information under 37 CFR 1.105, applicants submit the enclosed documents providing the following requested information:

- A. Veronica 'Glory' CPVO Grant
- B. Veronica 'Glory' CPVO Application
- C. Veronica 'Glory' Proposed Denomination

Veronica Glory was first sold in the United States on October 4, 2000.

Applicants decline to provide information on sale or public availability outside of the United States.

35 U.S.C. 102:

It is noted that 102b states that only sale activities in the United States and not in other countries can trigger a 102b statutory bar.

Title 35 U.S.C. 102(b) reads, in pertinent part that a person shall be entitled to a patent unless the invention was in public use or on sale in this country, more than one year prior to the date of the application for patent in the United States. Veronica 'Glory' has not been in public use or sale in this country more than one year prior to the filing date of the present application.

The Applicant declines, however, to provide information regarding the public use and availability of the subject plant variety outside of the United States, as such information is not material to a determination of "plant patentability" of a plant variety in

the United States as defined by section 102b.

Applicant respectfully requests that the Examiner reconsider the scope of the Request for Information under 37 C.F.R. 1.105, and that the Examiner refrain from issuing any rejection under 102(b) based on any printed publication, either alone or in combination with foreign public use. It is believed that the Board of Appeals and Interferences and the Federal Circuit will not support any such rejections.

The response provides the Examiner with all information known to the Applicant regarding the public use and availability of the subject plant variety in the United States.

It is respectfully requested that the 102 rejection be withdrawn.

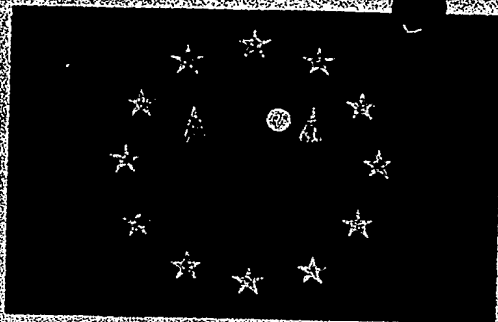
CONCLUSION:

The Examiner's attention to each of the parts of the patent application is greatly appreciated. A version of the substitute specification is attached showing the changes that were made.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Mark P. Bourgeois', written in a cursive style.

Mark P. Bourgeois
Reg. No. 37,782



CERTIFICATE ON THE GRANT OF COMMUNITY PLANT VARIETY RIGHTS

THE COMMUNITY PLANT VARIETY OFFICE HEREBY ACKNOWLEDGES THE GRANT OF
COMMUNITY PLANT VARIETY RIGHT BY ITS DECISION N° EU5056 OF 25 OCTOBER 1999
TAKEN IN ACCORDANCE WITH COUNCIL REGULATION (EC) N° 2100/94 ON COMMUNITY
PLANT VARIETY RIGHTS, WITH EFFECT FROM THE DATE OF THE DECISION REFERRED TO
ABOVE, FOR

HEATHER & MIKE PHILPOTT
STRAWBERRY COTTAGE HAMNISH
UK - NR LEOMINSTER HEREFORDSHIRE HR6 0RH

AS HOLDER OF THIS RIGHT,

REPRESENTED BY

MIKE DUNNETT
Blakedown Nurseries Ltd

BEING DOMICILED OR HAVING HIS SEAT OR ESTABLISHMENT IN

BELBROUGHTON ROAD 468 BLAKEDOWN
UK - WORCESTERSHIRE DY10 3JG

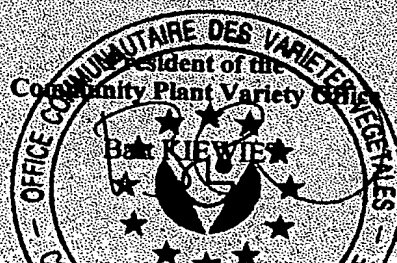
IN RESPECT OF THE VARIETY OF *Veronica spicata* L BEARING THE DESIGNATED
DENOMINATION

GLORY

FOR A PERIOD EXPIRING ON 31/12/2024 AT THE LATEST.

THE COMMUNITY PLANT VARIETY RIGHT HAS UNIFORM EFFECT WITHIN THE TERRITORY OF
THE EUROPEAN COMMUNITY AND MAY NOT BE TRANSFERRED IN RESPECT OF THIS
TERRITORY OTHERWISE THAN ON SUCH UNIFORM BASIS. IT CAN BE EXERCISED AND
ENJOYED BY THE HOLDER IN ACCORDANCE WITH COUNCIL REGULATION N° 2100/94 ON
COMMUNITY PLANT VARIETY RIGHTS.

THIS ACKNOWLEDGEMENT DOES NOT AFFECT THE REQUIREMENT OF THE HOLDER TO PAY
THE FEES DUE FOR EACH YEAR OF DURATION OF THE COMMUNITY PLANT VARIETY RIGHT.





EUROPEAN UNION

COMMUNITY PLANT VARIETY OFFICE

PROPOSAL FOR A VARIETY DENOMINATION

Date of receipt
(for Office use only)

1. Applicant: name and address:

HEATHER AND MIKE PHILPOTT
STRAWBERRY COTTAGE,
HAMNISH, NR. LECOMINSTER,
HEREFORDSHIRE, ENGLAND HR6 0RH

2. Provisional designation of the variety (breeder's reference):

Variety - 'GLORY'

3. Botanical taxon: Latin name of the genus, species or sub-species to which the variety belongs and common name:

Latin Name: VERONICA SPICATA

Common Name: GLORY

4. File no., if already known:

N/A

5. Proposal for a variety denomination:

VERONICA SPICATA GLORY

(Please, propose only one and use capital letters)



European Union

Community Plant Variety Office
r-form

Angers 22/12/97

DUNNETT MIKE
Blakedown Nurseries Ltd
BELBROUGHTON ROAD 468
BLAKEDOWN

UK - WORCESTERSHIRE DY10 3JG

RECEIPT

The Community Plant Variety Office herewith acknowledges the receipt of your application for a Community plant variety right in respect of a plant variety with the following provisional designation

GLORY

File number of the application	97/1485
Date of receipt at the Office	22/12/97
Number of documents received	4 + copies
National agency and its file no	

1.- Date of application

Date of application: 22/12/97

- ☐ The date of application indicated is subject to the receipt of the Application Fee.
- ☒ The application is complete.
- ☐ The application does not contain the following details necessary for its further processing (Article 19 of the Implementing Rules):
 - ☐ A procedural representative has not been designated as required under Article 82 of the Regulation
 - ☐ The following information is missing:
 - ☐ The following documents are missing:
 - ☐ consent of the responsible authority for the release of a GMO in accordance with Directive 90/220/EEC
 - ☐ The Office will refuse the application if the deficiencies listed above are not remedied within two months from the date of issue of this receipt

2.- Application Fee

☒ The application fee has been received in good order

☐ Evidence of the acts necessary for the payment has been produced together with the application

☐ The application fee has not been received yet by the Office.

The applicant is required to provide for the receipt of the Application Fee within two weeks from the date of issue of this receipt.

ATTENTION:

The Office will issue a new request for payment after the expiry of these two weeks. If the application fee is not received within one month from the date of issue of that new request the application will be deemed to be withdrawn.

☐ The date of application determined in this receipt will be maintained only if the Application Fee is received within the two weeks mentioned above

ATTENTION:

If the Application Fee is not received within the two weeks mentioned above, the date of receipt of the Application Fee payment shall be the date of application.

NB. If the payment has already been made, please disregard the notice above.

3.- Priority date:

☐ A sufficient copy of the earliest application has been provided

☐ The applicant is required to provide a copy of the earliest application, which must be certified by the authority responsible for that application. If such copy is not received within three months of the date of application, the claim for priority will lapse

☐ The claim for priority cannot be accepted for the following reasons:

4.- Proposal for a variety denomination

- ☒ A proposal for a variety denomination has been received
- ☐ No proposal for a variety denomination has been received. A form for proposing a variety denomination is attached to this receipt. The Office recommends to submit a proposal for a variety denomination at an early stage in the procedure in order to avoid unnecessary delay in the procedure.
If no proposal for a variety denomination is received at the time of receipt of the final results of the technical examination, the application will be refused.

5.- Technical examination : See point 6.

- ☐ The technical examination will be carried out by the examination office indicated on the attached annex. Material for technical examination and reference samples must be submitted according to the instructions included in the annex.
The examination fee for the first growing period must be paid no later than one month after the closing date for receipt of the material for technical examination.
The amount of the examination fee to be paid is ECU.
Please refer to the above CPVO file number when making your payment.
- ☐ The technical examination cannot start because of the deficiencies indicated above under 1B/1C.
- ☐ The Office examines the taking over of results of a technical examination, finished or still ongoing, of another authority.

6.- Other remarks

As soon as an examination office has been entrusted, the Office will inform you.

FOR THE COMMUNITY PLANT VARIETY OFFICE


Béatrice PABEA

Register Officer



EUROPEAN UNION

COMMUNITY PLANT VARIETY OFFICE

DETAILS OF PAYMENT

1. Name of the applicant/holder/appellant/other party¹ making the payment:

..... BLAKE DOWN NURSERIES LTD

2. Purpose of payment:

File number Breeder's reference/ Reason² Amount in ECU
denomination

..... VERONICA SPICATA GLORY Application Fee
..... 1000

3. Way of payment:

2.1 The amount of 1000 ECU was transferred to
Bank: Caisse régionale de Crédit Agricole Anjou-Mayenne (Angers Entreprises)
Boulevard Pierre de Coubertin - BP 246
F-49004 ANGERS Cedex 01
Account n°: 15206-00032-15866548XEU-75 (payments in Ecus only)
SWIFT-Code: AGRIFRPP852

..... CLOUDES BANK P/LC (banking establishment/post office)

..... 30-94-70 (sorting code)

..... 0038106 (bank/post account number)

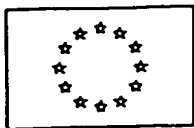
4. Acknowledgement of the given order of transfer (including the date of order)³:
(to be filled out by the banking establishment/post office mentioned under 3.2.)

¹ please delete as appropriate

² D = Application fee, E = Examination fee, A = Annual fee, R = Appeal fee, AD = Administrative fee, F = Other fee, please specify

³ An acknowledgement is not required by the Office; it is only necessary if a payment of a fee is not received within a time limit required (including a time limit within which a given date of application would be maintained).

	Office use
<p>1.- Applicant(s): Name(s):</p> <p>.....HEATHER AND MIKE PHILPOTT.....</p> <p>Telephone: ...01568 760319... Fax:</p> <p><input type="checkbox"/> If natural person, indicate nationality and address:</p> <p>.....ENGLISH - STRAWBERRY COTTAGE, HAMNISH NR. LECOMSTER HEREFORDSHIRE ENGLAND, HR6 0RH</p> <p><input type="checkbox"/> If legal person, firm or company indicate the address of its seat or establishment:</p> <p>.....</p> <p>.....</p> <p>Indicate name and address of the natural person being the legal representative of the legal person, firm or company:</p> <p>.....</p> <p>.....</p> <p>Telephone: Fax:</p>	
<p>2.- If a procedural representative has been designated, please indicate his name and address and file the relevant signed credentials:</p> <p>(For applicants not having a domicile, seat or establishment within the territory of the European Union, a procedural representative with a domicile, seat or establishment therein is required)</p> <p>.....BLAKEDOWN NURSERIES LTD, M. L. DUNNETT..... BELBROUGHTON ROAD, BLAKEDOWN.....</p> <p>Telephone: 01562 700551..... Fax: 01562 700093.....</p> <p>.....WORCS, ENGLAND DY10 3JG</p>	
<p>3.- Address to which correspondence is to be sent if different from 1 or 2.</p> <p>.....M. L. DUNNETT - BLAKEDOWN NURSERIES LTD.....AS ABOVE.....</p> <p>Telephone: 01562 700551..... Fax: 01562 700093.....</p>	
<p>4.- Botanical taxon: Latin name of the genus, species or sub- species to which the variety belongs and the common name.</p> <p>.....VERONICA SPICATA GLORY.....</p>	



EUROPEAN UNION
COMMUNITY PLANT VARIETY OFFICE

APPLICATION FOR COMMUNITY PLANT VARIETY RIGHT
TO THE COMMUNITY PLANT VARIETY OFFICE

For use of National Agency only, if necessary

Via National Agency:

File No.:

For Office's use only

Date of application :

Priority date :

File number of application :

Payment of the Application Fee
received on:

DESIGNATION OF PROCEDURAL REPRESENTATIVE
Regulation 2100/94/EC of 27 July 1994

~~By~~ / We* HEATHER AND MIKE PHILPOTT
Of STRAWBERRY COTTAGE
HAMNISH
NR. LEOMINSTER, HEREFORDSHIRE, ENGLAND
HR6 0RH
Designate MICHAEL L. DUNNETT
Of BLAKEDOWN NURSERIES LTD
BELBROUGHTON ROAD,
BLAKEDOWN, WORCS, ENGLAND DY10 3JG
Telephone 01562 700551
Fax 01562 700093

as my/our procedural representative in respect of;

A.

- ☒ my application for a Community plant variety right
☒ holdership of a Community plant variety right

for the following variety:

(denomination/breeder's reference)
VERONICA SPICATA plant species: latin name)
GLORY (plant species: common name)

B.

- ☐ other proceedings (e.g. objections, appeal), please state

C.

- ☒ all proceedings in respect of;
☐ all species;
☒ the following species:

VERONICA SPICATA GLORY

The above designated procedural representative ~~is~~ / is not* ~~my~~/our employee.

If this designation refers to an existing application or grant of rights please quote the file number.....

16th November, 1997
DATE 16th November, 1997

SIGNATURE

H. R. Philpott
H. Philpott

* Delete as necessary

☐ Tick as required

- 5.- a) Where appropriate, proposal for the variety denomination (in BLOCK LETTERS):

..... ' GLORY '

- b) In any case, provisional designation (breeder's reference) for the variety (in BLOCK LETTERS):

..... N/A

- 6.- The original breeder(s) is(are)

☒ the applicant(s).

☐ the following person(s):

Name(s) and address(es):

..... HEATHER AND MIKE PHILPOTT
..... STRAWBERRY COTTAGE, HAMMISH NR. LECOMINSTER
..... HERE FLORESHIRE, ENGLAND
.....

Telephone: 01568 760319... Fax: HR6 0RH

If the original breeder is not the applicant, how was the variety transferred to the applicant(s):

☐ contract

☐ succession

☐ other(specify)

Please provide relevant documentary evidence or fill out the attached form "assignment".

See attached 'Designation of Procedural Representative'

7.- Details of all other applications made in a Member State of the EU or in a Member of the International Union for the Protection of New Varieties of Plants (UPOV):

	Filing State/date	Authority	Application Number	Stage	Variety denomination or breeder's reference
Plant Variety Protection:			NONE		
Official Variety List :					
Patent:					

(If necessary, continue on a separate sheet)

8.- Priority is now claimed in respect of the earliest application for a property right filed :

in (country)

N/A

on (date of application)

9.- a) Has the variety been sold or otherwise exploited?

- Within the territory of the European Union ☐ Yes ☒ No.
If yes, please indicate date and country of the first disposal of the variety and the designation used

- Outside the territory of the European Union ☐ Yes ☒ No.
If yes, please indicate date and country of the first disposal of the variety and the designation used

- b) In the case of a variety which is repeatedly used in the production of one or more hybrid varieties, please indicate for each hybrid variety the same information as requested in a).

N/A

- c) Has the variety been disposed of under other circumstances than those mentioned under a) or b) by the breeder or with his consent? Please give the details.

N/A

	Office use
<p>10.- A technical examination for official purposes</p> <p><input type="checkbox"/> has already been carried out</p> <p><input type="checkbox"/> is in the process of being carried out</p> <p>in <u>None carried out</u></p>	
<p>11.- The variety represents a Genetically Modified Organism within the meaning of Article 2(2) of the Council Directive EEC 90/220 of 23.04.90? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p>	
<p>12.- In case of a Community plant variety right granted, the certificate should be issued in the following official languages of the EU:</p> <p>..... <u>ENGLISH</u></p>	
<p>Application Fee: Has the payment of the Application Fee already been arranged: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Please fill out and attach the form "details of payment".</p> <p><u>Attached</u></p>	
<p>The following forms or documents are attached to this application :</p> <p><input checked="" type="checkbox"/> 1 <input checked="" type="checkbox"/> 2 <input checked="" type="checkbox"/> 3 <input checked="" type="checkbox"/> 4 <input checked="" type="checkbox"/> 5 <input checked="" type="checkbox"/> 6 <input checked="" type="checkbox"/> 7 <input checked="" type="checkbox"/> 8 <input checked="" type="checkbox"/> 9</p> <p>The technical questionnaire and the credentials of any procedural representative form part of the application.</p> <p><u>Attached</u></p>	

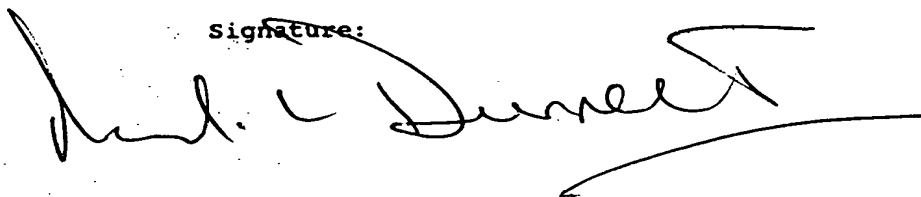
- § (We) hereby apply for the grant of the Community plant variety right.
- Authorization is hereby given to the Community Plant Variety Office to exchange with the Examination Offices and other competent authorities all necessary information and material related to the variety provided that the rights of the applicant are safeguarded.
- § (We) hereby declare that, to the best of my (our) knowledge, the information necessary for the examination of the application, given in this form and in the annexes is complete and correct.
- § (We) hereby declare that no further person or persons than that or those mentioned in this application has been involved in the breeding, or discovery and development of the variety.

Place: BLAKEDOWN NURSERIES

Date: 15/12/97

YD

Signature:



SEE INSTRUCTIONS

6. If any, the preceding product is a variety denomination made to the following:

N/A

7. Denominations proposed for entry or entered in an official register in a Member State of the EU or in a Member of UPOV

Filing State	Stage	Denomination (if different from 5 above)
	NONE	

8. ☐ The proposed denomination has been filed by or registered for the applicant (s) as a trademark in the EU or in a Member of UPOV or with the International Bureau of the World Intellectual Property Organization (WIPO) in respect of products that are identical or similar within the meaning of trademark law.

State and/or WIPO	Date of application	Date of registration	Registration number
	NONE		

I/We hereby declare that, to the best of my/our knowledge, the above information given in this form is complete and correct.

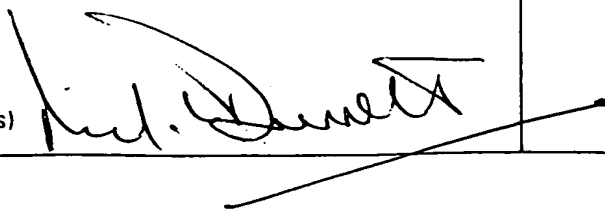
BLAKEDOWN NURSERY LTD

(Place)

15/12/97

(Date)

Signature (s)





EUROPEAN UNION
Community Plant Variety Office
TQ-EN-1

TECHNICAL QUESTIONNAIRE

(to be completed in connection
with an application for a
Community plant variety right)

For Office use only

DATE OF APPLICATION:

FILE NUMBER OF APPLICATION:

-
1. Botanical taxon: Latin name of the genus, species or sub-species to which the variety belongs and common name:

LATIN NAME : VERONICA SPICATA

COMMON NAME : GLORY

-
2. a) Applicant(s): Name(s) and address(es) and where appropriate name and address of the procedural representative:

Applicant:

HEATHER AND MIKE PHILPOTT

STRAWBERRY COTTAGE,
HAMNISH,
NR. LECOMINSTER
HEREFORDSHIRE, ENGLAND

- b) original breeder(s) if different from applicant: Names and address(es) HR6 GRH

Procedural Representative:

M. L. Dunnett

BLAKEDOWN NURSERIES LTD
BELBROUGHTON ROAD,
BLAKEDOWN,
WORCS.
ENGLAND, DY10 3JG

3. a) Where appropriate proposal for a variety denomination:

'GLORY'

- b) Provisional designation (breeders reference):

STRAWBERRY COTTAGE

4. Information on:

- 4.1 Geographical origin of the variety:

Owner garden in Leominster.

- 4.2 Breeding, maintenance and reproduction of the variety
Please complete Question 4 of the attached UPOV extract (where appropriate)

Seedling found in garden
Propagation and maintenance by cuttings

- 4.2.1 Shall the information on data relating to components of hybrid varieties including data related to their cultivation be treated as confidential?

Yes



No

If yes please give this information on the attached form for confidential information.

If no, please give information on data relating to components of hybrid varieties including data related to their cultivation:

Breeding scheme (indicate female component first)

By propagation.

5. GMO-information required

The variety represents a Genetically Modified Organism within the meaning of Article 2(2) of the Council Directive EEC/90/220 of 23.04.1990.

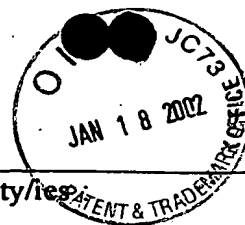
YES

NO ☒

6. Characteristics of the variety to be given

Please complete question 5 of the attached UPOV extract
(The number in brackets refers to the corresponding characteristics in the test guidelines, please mark the state of expression which best corresponds).

Number	Characteristics	Example varieties	Note
--------	-----------------	-------------------	------



7. Closest variety/ies and differences from those variety/ies

Denomination of the
closest variety/ies

Characteristic in which
the closest variety/ies
is/are different

State of expression
~~of the closest variety/ies~~
Candidate variety

Veronica
longifolia
'forsters Blue'

Blue flowers
Longer leaf,
than 'Glory'
Taller in
growing habit

Veronica
'Glory'

Violet Blue flower
(RHS G3B)
Compact growth
6" spiked
flowers
Dark green leaf.

8. Additional information which may help distinguish the variety

8.1 Resistance to pests and diseases

None discovered

8.2 Special conditions for the growing of the variety

Prefers well drained soil

8.3 Other information (drawings, photographs, etc.)

TECH CENTER 1600/2900

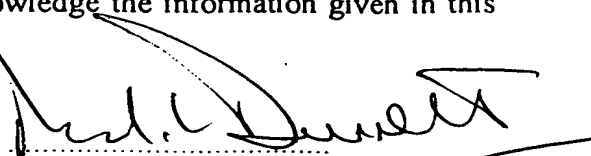
FEB 04 2002

RECEIVED

I/we hereby declare that to the best of my/our knowledge the information given in this form is complete and correct

15/12/97

date


signature